

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GLEN A. PEARSON)	
Claimant)	
VS.)	
)	Docket No. 230,810
OVERLAND PARK AUTOMOTIVE)	
Respondent)	
AND)	
)	
AMERICAN FAMILY MUTUAL INSURANCE CO.)	
Insurance Carrier)	

ORDER

Respondent appeals from an Award entered by Administrative Law Judge Julie A. N. Sample on October 2, 1998. The Appeals Board heard oral argument on April 20, 1999.

APPEARANCES

Andrew R. Heyl of Lenexa, Kansas, appeared on behalf of claimant. Joseph R. Ebbert of Kansas City, Kansas, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The Administrative Law Judge awarded benefits and, on appeal, respondent contends claimant has not proven that the injury arose out of and in the course of employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the Award should be affirmed. The Board agrees with, and adopts as its

own, the findings of fact and conclusions of law stated in the Award by the Administrative Law Judge.

While not wholly free from doubt, the Board believes claimant's testimony regarding the onset of symptoms, the nature of claimant's work, and the medical testimony in this case establish by a preponderance of the credible evidence claimant's hernia condition arose out of and in the course of his employment as a mechanic for respondent.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Julie A. N. Sample on October 2, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Andrew R. Heyl, Lenexa, KS
 Joseph R. Ebbert, Kansas City, KS
 Julie A. N. Sample, Administrative Law Judge
 Philip S. Harness, Director